

05.08.2021.
318.
Akd/As
(Allowed)

**C.R.M. 1695 of 2021
(Via Video Conference)**

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Malda P.S. Case No.359 of 2020 dated 29.06.2020 under Sections 21/29 of the N. D. P. S. Act read with Sections 18(b)/27 of Drugs & Cosmetics Act and charge sheet submitted under Sections 21 (c)/29 of the N. D. P. S. Act read with Section 18(b)/27 of the Drugs and Cosmetics Act.

In the matter of : Tapan Ghosh & Ors.

... Petitioners.

Mr. Niladri Sekhar Ghosh,
Mr. Sakhawat Khandakar.

.....for the Petitioners.

Mr. Sanjoy Bardhan,
Mr. Ranadeb Sengupta.

.....for the State.

Apprehending arrest in connection with Malda P.S. Case No.359 of 2020 dated 29.06.2020 under Sections 21/29 of the N. D. P. S. Act read with Sections 18(b)/27 of Drugs & Cosmetics Act, the petitioners have filed the instant application for anticipatory bail.

The petitioners have been implicated in connection with the aforesaid case on the basis of the statement of the co-accused from whom the contraband was recovered. No recovery was shown from the joint possession or the exclusive possession of the petitioners. Therefore, the petitioners have been able to make out a case for taking exception to the provision of Section 37 of the N. D. P. S. Act. Furthermore, the co-accused who stands on the same footing that of the

petitioners had been extended the benefit of anticipatory bail by this Court.

Since the petitioners stand on the same footing that of the co-accused, they are entitled to get an order of anticipatory bail on the ground of parity as well.

Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each, with two sureties of like amount each, one of whom must be local, subject to the satisfaction of the arresting officer and on conditions as enshrined under Section 438(2) of the Code of Criminal Procedure, 1973.

This application for anticipatory bail is, thus, allowed.

The application for anticipatory bail, being CRM 1695 of 2021, is thus disposed of.

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)